

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Office Action dated March 1, 2005. A previous amendment was submitted on May 2, 2005 but upon review it was noted that it referenced a wrong serial number. This amendment is a duplicate of the previous one sent with corrected serial number. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 34-43 are pending in this application. Claims 34 and 40 are independent claims.

In the Office Action, the title is objected to for not being descriptive. A new title is submitted herewith which is clearly indicative of the invention to which the claims are directed. Accordingly, it is respectfully submitted that the title is now in proper form and an indication to that effect is respectfully requested.

The abstract is objected to for not including the subject matter contained in the specification on page 5, line 32 through page 6, line 1. The abstract is amended herein to include that subject matter and to be in proper U.S. format. It is respectfully submitted that the abstract is now proper and an indication to that effect is respectfully requested.

The Figures are objected to for failing to illustrate what is described at page 5, line 32 through page 6, line 1. A proposed

respectfully submitted that the drawings are now in proper form and a notice to that effect is respectfully requested. A formal drawing of FIG. 5 will be submitted after receipt of a Notice of Allowance.

Additionally, the specification as requested is amended in the Brief Description of the Drawings, the Detailed Description of Preferred Embodiments of the Invention, and in the Summary of the Invention. Accordingly, it is respectfully submitted that the specification is in proper form and an indication to that effect is respectfully requested.

With regard to the indication that "[t]he claims may need amending", this proposal is respectfully refused. It is respectfully submitted that the Board has indicated that the §102(b) rejection of Claims 34-43, as submitted on appeal is reversed. It is respectfully submitted that under section 2 entitled "Anticipation Determination" (see, the section starting on page 6 of the Board's Decision on Appeal), particularly the second full paragraph on page 7 of the Decision on Appeal, the board focused on the term "predetermined" in the claims. Particularly, the Board noted that they "are unpersuaded that such an arbitrary point [as shown in Levine], however, is 'predetermined.'" To the contrary, [the Board] agree[d] with the appellants that the arbitrary point 'is not predetermined because its value depends upon the actual depression time.'" Accordingly, it is respectfully

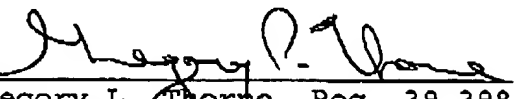
contrary, [the Board] agree[d] with the appellants that the arbitrary point 'is not predetermined because its value depends upon the actual depression time.'" Accordingly, it is respectfully submitted that the claims contain the patentable elements on which the Board rendered its decision and therefore do not require amendment to be in proper form for allowance. An indication to that effect is therefore respectfully requested.

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Please charge any additional fees which may be necessitated by entrance of this amendment, and credit any overpayment, to Deposit Account No. 14-1270.

Early and favorable action is earnestly solicited.

Respectfully submitted,

By   
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